

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF WISCONSIN

ELIOT DON RAY,

Petitioner,

v.

Case No. 07-C-190

WILLIAM POLLARD,

Respondent.

ORDER GRANTING CERTIFICATE OF APPEALABILITY

A certificate of appealability may issue only if the applicant makes a substantial showing of the denial of a constitutional right. 28 U.S.C. § 2253(c)(2). The standard for making a “substantial showing” is whether reasonable jurists could debate whether the petition should have been resolved in a different manner or that the issues presented were adequate to deserve encouragement to proceed further. *Barefoot v. Estelle*, 463 U.S. 880, 893 & n. 4 (1983). If the court issues a certificate of appealability it must indicate on which specific issue or issues the petitioner has satisfied the “substantial showing” requirement. 28 U.S.C. § 2253(c)(3).

Despite my conclusion in an earlier order, Docket 67, that Ray’s claim ultimately fails, I conclude the petitioner has made a substantial showing on the issue of whether his petition was timely under the AEDPA rules. Accordingly, the certificate of appealability will be granted as to that claim.

Dated this 29th day of September, 2011.

s/ William C. Griesbach
William C. Griesbach
United States District Judge